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TORRANCE CITY COUNCIL – JULY 20, 2010

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At 11:38 p.m., the meeting was adjourned to Tuesday, July 27, 2010 at 5:30 p.m. for an executive session, with regular business commencing at 7:00 p.m. in the Council Chambers.

July 20, 2010

**MINUTES OF AN ADJOURNED REGULAR
MEETING OF THE TORRANCE CITY COUNCIL**

1. CALL TO ORDER

The Torrance City Council convened in a joint meeting with the Commission on Aging at 5:30 p.m. on Tuesday, July 20, 2010 in the West Annex meeting room at City Hall.

ROLL CALL

Present: Councilmembers Barnett, Brewer, Furey, Numark, Rhilinger, Sutherland, and Mayor Scotto.

Absent: None.

Also Present: City Manager Jackson, Assistant City Attorney Sullivan, City Clerk Herbers, and other staff representatives.

The joint meeting included the following topics of discussion: discussion of Focal Point statistics; update on Mobile Home Space Rental Subsidy Program, and update on Shared Housing Program.

The Commission on Aging meeting was adjourned at 6:24 p.m., and the City Council recessed to Council Chambers to conduct regular business.

The City Council reconvened in Council Chambers at 7:02 p.m. with all members present.

2. FLAG SALUTE/INVOCATION

The flag salute was led by former mayor Dee Hardison.

Councilmember Rhilinger gave the non-sectarian invocation.

**3. REPORT OF CITY CLERK ON POSTING OF THE AGENDA / MOTION TO
WAIVE FURTHER READING**

City Clerk Herbers reported that the agenda was posted on the Public Notice Board at 3031 Torrance Boulevard on Thursday, July 15, 2010.

MOTION: Councilmember Numark moved that after the City Clerk has read aloud the number and title to any resolution or ordinance on the meeting agenda, the further reading thereof shall be waived, reserving and guaranteeing to each Councilmember the right to demand the reading of any such resolution or ordinance in regular order. The motion was seconded by Councilmember Sutherland and passed by unanimous roll call vote.

4. **WITHDRAWN, DEFERRED OR SUPPLEMENTAL ITEMS**

Agenda Item 14A was withdrawn.

5. **COUNCIL COMMITTEE MEETINGS AND ANNOUNCEMENTS**

Councilmember Barnett announced that the City Council Ad Hoc State Legislative Committee will hold a meeting on Thursday, July 22, 2010 at 3:30 p.m. in the Third Floor Assembly Room in City Hall.

Councilmember Furey announced that a Helicopter Roundtable meeting will be held on Thursday, July 22, 2010, at 7:00 p.m. at Torrance Airport – General Aviation Center located at 3301 Airport Drive.

City Clerk Herbers announced that appointments to fill vacancies on the Commission on Aging, Cable Television Advisory Board, Civil Service Commission and Parks & Recreation Commission will be made at the July 27 City Council meeting and that applications were being accepted in the City Clerk's office until July 21 at 5:30 p.m.

Police Chief Neu reported that Torrance Police Detective Ahmad received the 2010 Immigration and Customs Enforcement Assistant Secretary Award on June 25, 2010 in Baltimore, Maryland for his investigative work on domestic and international terrorism cases.

Mayor Scotto thanked Councilmember Rhilinger for serving as Mayor Pro Tem for the past six months and noted that Councilmember Furey will be serving in this position for the next six months.

Mayor Scotto announced that the City, in partnership with Southern California Edison, will offer the following cooling centers this summer: 1) Bartlett Senior Center, open Monday through Saturday 8:00 a.m. - 4:00 p.m. and Sunday 12:30 p.m. - 4:00 p.m. and 2) Katy Geissert Civic Center Library, open Monday through Thursday 10:00 a.m. – 9:00 p.m., Friday 10:00 a.m. – 6:00 p.m. and Saturday 10:00 a.m. – 5:30 p.m.

Mayor Scotto asked that the meeting be adjourned in memory of Harry Sunshine, father of City employee Brian Sunshine, who passed away on July 19, 2010.

6. **COMMUNITY MATTERS**

6A. **RESOLUTION NO. 2010-65 RE SHERYL DUSOMME**

RESOLUTION NO. 2010-65

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TORRANCE
HONORING **SHERYL DUSOMME** UPON HER RETIREMENT FROM THE CITY
AFTER TWENTY-FIVE YEARS OF SERVICE

MOTION: Councilmember Furey moved to adopt Resolution No. 2010-65. The motion was seconded by Councilmember Rhilinger and passed by unanimous roll call vote.

To be presented at a later date.

6B. RESOLUTION NO. 2010-66 RE DARLEEN POTTER

RESOLUTION NO. 2010-65

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TORRANCE
HONORING **DARLEEN POTTER** UPON HER RETIREMENT FROM THE
CITY AFTER TWENTY-TWO YEARS OF SERVICE

MOTION: Councilmember Furey moved to adopt Resolution No. 2010-66. The motion was seconded by Councilmember Rhilinger and passed by unanimous roll call vote.

To be presented at a later date.

7. ORAL COMMUNICATIONS #1

7A. Debbie Hays, Torrance Historical Society, thanked sponsors, City staff and everyone who assisted with the 6th Annual Rock Around the Block event for contributing to its success.

7B. Janet Payne, Torrance Historical Society, announced a free walking tour of Downtown Torrance on Sunday, July 25, at 1:30 p.m., starting at the Historical Museum located at 1345 Post Avenue.

8. CONSENT CALENDAR

8A. APPROVAL OF MINUTES

Recommendation

Recommendation of the City Clerk that City Council approve the City Council minutes of May 4, May 11, May 18, and May 25, 2010.

8B. APPROVAL OF FINAL PARCEL MAP NO. 70166

Recommendation

Recommendation of the Community Development Director that City Council:

- 1) Approve Final Parcel Map No. 70166;
- 2) Accept three separate 27' X 5' sidewalk easements along Border Avenue;
- 3) Accept two narrow slivers of street easements at the northeast corner of Border Avenue and 220th Street;
- 4) Abandon an unneeded 170' X 5' public sewer easement located along the east end of the northerly property line; and
- 5) Abandon an unneeded small sliver of street easement at the northeast corner of Border Avenue and 220th Street.

This Parcel Map merges three lots into one lot on property located at 1907 and 1915 Abalone Avenue in the Industrial Redevelopment Project area. This project is owned by 1915 Abalone, LP and 1907 Abalone, LP. The Final Parcel Map substantially conforms to and meets all conditions of approval of the Tentative Parcel Map.

8C. CONTRACT AMENDMENT RE WILSON PARK POND RESTORATION PROJECT

Recommendation

Recommendation of the Community Services Director that City Council approve a second contract amendment with Sea Clear Pools (C2009-091) for improvements identified in the Wilson Park Pond Restoration Project (FEAP #709) to extend the term from June 30, 2010, to December 31, 2010.

8D. FEE AMENDMENT FOR LEGAL SERVICES

Recommendation

Recommendation of the City Attorney that City Council approve the fourth amendment to the fee agreement with the law firm of Liebert Cassidy Whitmore (C2008-212) to provide legal services in the matter of Brumbaugh v. City of Torrance, LA Superior Court Case No. BS116891, for an additional \$55,000 for a total not to exceed the amount of \$175,000.

8E. PURCHASE ORDERS FOR BOOKS, AUDIO/VISUAL MATERIALS FOR LIBRARY SYSTEM

Recommendation

Recommendation of the Community Services Director that City Council authorize purchase orders with Baker & Taylor of Charlotte, NC in the amount of \$355,000 as a cooperative purchase agreement with the City of Mission Viejo, CA (Ref. Contract #A09-13) for the purchase of books, audio and visual materials for the Torrance Library system from July 21, 2010 through July 20, 2011.

8F. PURCHASE ORDER FOR POLICE BRIEFING/ASSEMBLY ROOM FURNITURE

Recommendation

Recommendation of the Police Chief that City Council:

- 1) Appropriate \$39,094.84 from the El Camino Training Fund and \$860.97 from the Police operating budget; and
- 2) Authorize a purchase order to CSI Fullmer of Pasadena, CA in the amount of \$39,955.81 for the purchase of tables and chairs for the Police Briefing/Assembly Rooms.

8G. CONTRACT AMENDMENT RE DIGITIZING OF MICROFILM

Recommendation

Recommendation of the Community Services Director that City Council approve a contract amendment with PTFS, Inc., (C2008-062) extending the term from March 18, 2009 to August 31, 2010 to digitize the microfilm of the *Torrance Herald*, newsprint of the *Torrance Press*, and city directories.

MOTION: Councilmember Brewer moved for the approval of Consent Calendar Items 8A through 8G. The motion was seconded by Councilmember Barnett and passed by unanimous vote

10. PLANNING AND ECONOMIC DEVELOPMENT

10A. RESOLUTION AUTHORIZING PARTICIPATION IN LOS ANGELES COUNTY ENERGY PROGRAM

Recommendation

Recommendation of the Community Development Director that City Council adopt a Resolution authorizing participation in the Los Angeles County Energy Program (LACEP).

Assistant Community Development Director Cessna advised that the proposed Resolution will allow residents to participate in the L.A. County Energy Program, which provides a mechanism for property owners to finance energy/water efficiency improvements through a levy assessed against their property payable in semi-annual installments on property tax bills. She confirmed that the City would not incur any financial liability by participating in the program.

MOTION: Councilmember Brewer moved to concur with the staff recommendation. The motion was seconded by Councilmember Sutherland and passed by unanimous vote.

RESOLUTION NO. 2010-67

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TORRANCE
AUTHORIZING THE INCLUSION OF PROPERTIES WITHIN THE
INCORPORATED AREA OF THE CITY IN THE LOS ANGELES COUNTY
ENERGY PROGRAM TO FINANCE DISTRIBUTED GENERATION
RENEWABLE ENERGY SOURCES AND ENERGY AND WATER EFFICIENCY
IMPROVEMENTS, APPROVING THE REPORT SETTING FORTH THE
PARAMETERS OF THE REFERENCED PROGRAM AND CERTAIN MATTERS
IN CONNECTION THEREWITH

MOTION: Councilmember Furey moved to adopt Resolution No. 2010-67. The motion was seconded by Councilmember Rhilinger and passed by unanimous vote.

12. ADMINISTRATIVE MATTERS

12A. CONSOLIDATED PLAN FOR ENERGY CONSERVATION PROJECTS

Recommendation

Recommendation of the City Manager and General Services Director that City Council:

- 1) Approve a consolidated plan for energy conservation projects;
- 2) Withdraw authorization for a sole source contract with Johnson Controls, Inc.;
and
- 3) Appropriate \$1,462,300 in Energy Efficiency Conservation Block Grant funding for the energy conservation projects.

Facility Services Manager Landis reported that staff was recommending that the Council withdraw its authorization for a sole source contract with Johnson Controls, Inc. because JCI's estimates for energy conservation projects have risen significantly since the contract was originally authorized in October 2009 and estimates obtained from local independent contractors indicate that it would be more cost effective to use the competitive bidding process.

In response to Mayor Scotto's inquiry, Assistant City Attorney Sullivan advised that there were no legal ramifications should the Council withdraw its authorization for the sole source contract because the City never actually entered into the contract.

Councilmember Numark encouraged staff to explore other alternatives, such as the use of an outside project manager, if it turns out that energy-saving projects cannot be accomplished within a reasonable timeframe.

Councilmember Sutherland noted his continued opposition to the awarding of sole source contracts because costs tend to become inflated in the absence of competition.

MOTION: Councilmember Numark moved to concur with the staff recommendation. The motion was seconded by Councilmember Sutherland and passed by unanimous vote.

12B. ASSIGNMENT OF OVERSIGHT RESPONSIBILITY FOR STRATEGIC PLAN

Recommendation

Recommendation of the City Manager that City Council review the current City Council standing committee structure and consider options presented by staff for assigning oversight responsibility of the Strategic Plan.

Management Associate Hoang reviewed the following options for assigning oversight responsibility for the Strategic Plan: 1) Assign this responsibility to an existing City Council standing committee; 2) Eliminate a standing committee and create a new committee for Strategic Plan oversight; or 3) Combine two current standing committees and create a new one for Strategic Plan oversight.

A brief discussion ensued, and Councilmember Brewer indicated that he favored combining the Employee Relations Committee, which has not met since 2008, with the Public Safety Committee and creating a new committee for Strategic Plan oversight.

Councilmember Furey related his preference that the responsibility for Strategic Plan oversight be assigned to the Community Planning and Design Committee, which has jurisdiction over the General Plan.

MOTION: Councilmember Brewer moved to combine the Public Safety and Employee Relations Committees and to create a new committee for oversight of the Strategic Plan. The motion was seconded by Councilmember Rhilinger and passed by a 5-2 roll call vote, with Councilmembers Furey and Numark dissenting.

12C. VACATION OF EASEMENT FROM DORMONT TO LOT 15 TRACT 23327

Recommendation

Recommendation of the Community Development Director that City Council adopt a Resolution summarily vacating an access easement from Dormont Avenue to Lot 15, Tract 23327.

Civil Engineer Symons reported that staff was recommending that this easement be vacated because it is unnecessary and has not been used for its intended purpose since it was granted in 2006.

MOTION: Councilmember Brewer moved to concur with the staff recommendation. The motion was seconded by Councilmember Sutherland and passed by unanimous vote.

RESOLUTION NO. 2010-68

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TORRANCE
ORDERING THE SUMMARY VACATION OF AN ACCESS EASEMENT FROM
DORMONT AVENUE TO LOT 15, TRACT 23327 IN THE CITY OF TORRANCE

MOTION: Councilmember Furey moved to adopt Resolution No. 2010-68. The motion was seconded by Councilmember Rhilinger and passed by unanimous vote.

**12D. AGREEMENT RE PARTICIPATION IN LACDC COMMUNITY DEVELOPMENT
BLOCK GRANT PROGRAM**

Recommendation

Recommendation of the Community Development Director that City Council authorize entering into a cooperation agreement with Los Angeles County Community Development Commission (LACDC) allowing the City of Torrance to participate in the LACDC Community Development Block Grant (CDBG) Program.

Deputy Community Development Director Cessna reported that Torrance is eligible for approximately \$1.2 million of CDBG funds, which may be used for programs and physical improvements benefiting seniors, disabled persons, and/or persons with low to moderate income, and staff was recommending that the City participate under the umbrella of L.A. County's CDBG program because the County administers the program and handles reporting requirements and it would also allow the City to trade funds with other participating cities in L.A. County.

Linda Jenkins, Los Angeles County Community Development Commission, provided background information about the program. She explained that the County receives 10% for administrative costs and funding would begin in July of 2011 and since this would be the last year of a three-year funding cycle, the City could decide whether to continue participation for the next funding cycle at that time.

Mayor Scotto expressed support for the City's participation in the program.

MOTION: Councilmember Brewer moved to concur with the staff recommendation. The motion was seconded by Councilmember Sutherland and passed by unanimous vote.

RESOLUTION NO. 2010-69

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TORRANCE
APPROVING PARTICIPATION IN THE LOS ANGELES URBAN COUNTY
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM BY AUTHORIZING
THE COUNCIL TO APPROVE AND THE MAYOR TO SIGN A COOPERATION
AGREEMENT WITH THE COUNTY OF LOS ANGELES FOR FISCAL YEAR
2011-2012

MOTION: Councilmember Furey moved to adopt Resolution No. 2010-69. The motion was seconded by Councilmember Rhilinger and passed by unanimous roll call vote.

12E. AGREEMENT FOR FY2009-2010 RESIDENTIAL SLURRY SEAL PROGRAM

Recommendation

Recommendation of the Public Works Director that City Council:

- 1) Approve the plans and specifications for the Fiscal Year 2009-2010 Residential Slurry Seal Program, I-100 (B2010-11);
- 2) Accept the letter from Pavement Coatings Co. acknowledging an irregularity in Bid Schedule A of their Bidder's Proposal for the Fiscal Year 2009-2010 Residential Slurry Seal Program, I-100 (B2010-11) and waive said irregularity; and
- 3) Award a one year public works agreement to Pavement Coatings Co. in an amount not to exceed \$466,951 for construction of the Fiscal Year 2009-2010 Residential Slurry Seal Program, I-100 and authorize a contingency in the amount of \$22,084.80.

Project Manager Buenavista provided an overview of the FY2009-2010 Slurry Seal Program, noting that it is scheduled to begin in August 2010 and be completed by October 2010.

MOTION: Councilmember Brewer moved to concur with the staff recommendation. The motion was seconded by Councilmember Sutherland and passed by unanimous vote.

12F. AGREEMENT AMENDMENTS FOR FY2009-2011 CITYWIDE SIDEWALK RAMPING/GRINDING PROGRAM

Recommendation

Recommendation of the Public Works Director that City Council:

- 1) Approve a budget transfer of Gas Tax funds in the amount of \$40,000 from the Residential Street Rehabilitation Program, I-94 to the Fiscal Year 2009-2011 Citywide Sidewalk Ramping/Grinding Program, I-101;
- 2) Approve a fourth amendment to the public works agreement with Hardy & Harper, Inc. (C2006-148) that extends the term one year until August 31, 2011 and increases the amount by \$330,000 for a new total amount of \$1,835,510 to construct the Fiscal Year 2009-2011 Citywide Sidewalk Ramping/Grinding Program, I-101; and
- 3) Approve a fourth amendment to the consulting services agreement with Project Partners (C2006-149) that extends the term until August 31, 2011 and increases the amount by \$90,000 for a new total amount of \$432,000 for construction inspection services for the Fiscal Year 2009-2011 Citywide Sidewalk Ramping/Grinding Program, I-101.

Project Manager Buenavista provided an overview of the FY2009-2011 Citywide Sidewalk Ramping/Grinding Program.

MOTION: Councilmember Brewer moved to concur with the staff recommendation. The motion was seconded by Councilmember Sutherland and passed by unanimous vote.

The Council briefly recessed from 8:08 p.m. to 8:26 p.m.

13. HEARINGS

13A. PRE09-00007: 209 VIA EL TORO – JIM AND BETSY DELURGIO

Recommendation

Recommendation of the Planning Commission that City Council deny the appeal and take the following action on property located within the Hillside Overlay District, in the R-1 Zone at 209 Via El Toro:

- 1) Adopt a Resolution denying a Precise Plan of Development to allow construction of first and second story additions to an existing one-story single family residence in conjunction with a new accessory structure.

Recommendation of the Community Development Director that City Council uphold the appeal and take the following action on property located within the Hillside Overlay District, in the R-1 Zone at 209 Via El Toro:

- 1) Adopt a Resolution approving a Precise Plan of Development to allow construction of first and second story additions to an existing one-story single family residence in conjunction with a new accessory structure.

Mayor Scotto announced that this was the time and place for a public hearing on this matter. City Clerk Herbers confirmed that the hearing was properly advertised.

With the aid of slides, Planning Manager Lodan briefly reviewed the proposed project and shared photographs of the silhouette taken from various vantage points in the neighborhood. He noted that the Planning Commission voted to deny the project on May 19, 2010 by a vote of 6-0 with one commissioner abstaining.

Councilmember Sutherland disclosed that he visited the site and spoke with the property owner and some of the neighbors. He noted that he had had meetings with Vicki Radel, one of the neighbors, when he served as president of the Rotary Club in 2000-2001 and she served as district governor, but since that time they have only exchanged greetings at social events.

Councilmember Brewer disclosed that he visited the subject property and neighbors on Camino de Encanto.

Councilmember Rhilinger disclosed that she drove through the area and viewed the silhouette from 513 and 515 Camino de Encanto, but made it clear to those with whom she came into contact that she could not discuss the case.

Councilmember Barnett disclosed that he visited the subject property and 513, 515 and 523 Camino de Encanto.

Councilmember Furey reported that he visited the site and viewed the silhouette from a number of vantage points, but did not speak to the proponents or any of the neighbors.

Councilmember Numark disclosed that he visited 513, 515 and 523 Camino de Encanto to assess the project's view impact.

Mayor Scotto disclosed that he discussed the project with the applicants and visited 513, 515 and 523 Camino de Encanto. He noted that he also knows Dr. Vicki Radel as a fellow Rotarian but it would not affect his ability to make an impartial decision.

Using slides to illustrate, Nagy Bakhoun, Obelisk Architects, project architect, explained that the usable area of the subject lot is fairly small due to views over and through the property and a one-story addition of the same size would have a much greater impact on ocean and city-light views than the proposed two-story project. He reviewed the revisions that were made to the original project to address neighbors' concerns, including eliminating/reconfiguring square footage, and reported that the applicant has offered to remove several large trees to open up view corridors. He noted that concerns have been expressed about privacy impact, but the second story is approximately 77 feet away from the nearest structure and second-story windows that could potentially impact privacy have a five-foot minimum sill height. He indicated that the applicant was amenable to a neighbor's suggestion that the detached accessory structure/pool house be moved closer to the property line to mitigate the view impact, however a Waiver of setback requirements would be needed.

Councilmember Brewer asked about suggestions from neighbors that the project incorporate subterranean elements. Mr. Bakhoun explained that the subject lot is not conducive to a subterranean design because it is primarily flat except for the upslope at the rear of the property and drainage would be compromised if portions of the structure were below grade.

In response to Councilmember Brewer's inquiry, Mr. Bakhoun reported that the accessory structure/pool house was not connected to the house because doing so would block the view at 523 Camino de Encanto. He explained that he did not use a flat roof on the pool house because it would not fit with the architectural style of the rest of the project and noted that the roof pitch is minimal and the interior has only an 8-foot plate height to keep the accessory structure as low as possible.

Councilmember Barnett asked if the trees currently intertwined with the silhouette will be removed. Mr. Bakhoun responded that he believed it would be impossible to build the project without removing them, noting that the trees were planted to shade the existing home which has poor insulation.

Councilmember Barnett reported that he observed that the accessory structure/pool house would impair views and stressed the importance of maintaining north and northwest view corridors. He suggested the possibility of limiting trees/shrubs and the roofline of the accessory structure to the height of the adjacent property line wall to the east.

Jim Delurgio, 209 Via El Toro, applicant, discussed his efforts to address neighbors' concerns during the design process; urged the Council to disregard photographs submitted by opponents that distort the project's impact; and related his belief that the proposed two-story project is the best design given the constraints of the lot.

Roberta Blowers, 721 Camino de Encanto, contended that the proposed project was not in harmony with the neighborhood, submitting a map of the notification area indicating that the majority of homes are one-story, with only a few two-story homes most of which are pre-Hillside Ordinance or semi-subterranean. She suggested that limiting the height of vegetation and requiring a flat roof on the accessory structure/pool house should be considered if the project is approved.

Gene Kusion, 523 Camino de Encanto, voiced his opinion that long-time residents like his family and other neighbors, who purchased their homes with unobstructed views 20-45 years ago should be protected from view blockage by newcomers like the Delurgios, who knowingly purchased a fixer-upper in a problematic location only a few years ago. Using photographs to illustrate, he reported that the project would block ocean and city-light views from his property, including the Hermosa and Manhattan Beach piers and the Santa Monica Mountains. He noted that a smaller two-story project next door to the subject property at 210 Via El Toro was previously denied due to the impact on views.

Councilmember Brewer related his observation that a one-story addition would seem to impact Mr. Kusion's view more than the proposed project. Mr. Kusion stated that he could not determine to what extent his view would be impacted without seeing actual plans and the applicant and his architect have declined to provide one-story plans so neighbors could make an objective comparison.

Armando Montano, 526 Palos Verdes Boulevard, voiced objections to the project, contending that it would impact his ocean view and devalue his property.

Andrew Filak, 514 Palos Verdes Boulevard, related his belief that the proposed project violates the California Coastal Act and the Hillside Ordinance, which limits construction to 14 feet in height, and urged the Council to deny it.

Assistant City Attorney Sullivan clarified that structures over 14 feet in height are permitted in the Hillside Overlay, but require the approval of a Precise Plan of Development.

Cindy Constantino, 513 Camino de Encanto, stated that the proposed project would diminish her privacy by 100% and would permanently block blue and white-water views that are currently obscured by poplar trees on the subject property. She maintained that the architect has refused to consider alternatives that could mitigate view impact, such as lowering the grade, building subterranean, utilizing a flat roof, and moving the accessory structure to the northeast section of the lot. She noted that the Planning Commission carefully considered the project and voted unanimously to reject it.

In response to Councilmember Brewer's inquiry, Ms. Constantino confirmed that she would prefer a one-story addition on this property.

Vicki Radel, 515 Camino de Encanto, reported that she has lived in her home for over 35 years and has always maintained a good relationship with her neighbors, therefore she greatly resents Mr. Delurgio's threats and frivolous lawsuits. She stated, however, in the spirit of compromise she would like to request that the following conditions be imposed if the Council decides to approve the project: 1) That the accessory structure/pool house be relocated to the northeast corner of the lot or moved closer to the property line; 2) That both the accessory structure/pool house and the second-story of the house have flat roofs; and 3) That vegetation be limited to the height of property-line walls.

A brief discussion ensued concerning the possibility of regulating the height of the vegetation.

Assistant City Attorney Sullivan advised that the City Attorney's office has grave concerns about imposing a condition restricting the height of vegetation due to the difficulty of enforcing such a condition and stressed the need to narrowly define the parameters if the Council chooses to do so because fence heights can change.

Peter Lattey, 515 Camino de Encanto, stated that the applicant has repeatedly claimed that a one-story project would have a greater impact on views, but has never provided actual plans to prove that would be the case. He noted his opposition to the project and proposed the following conditions if it is approved: 1) That vegetation be limited to a specific height, except for areas where it does not impact views; 2) That east and south facing windows be obscured or have a minimum sill height of 5'6"; 3) That no other structures, such as a gazebo or play structure, be allowed in any location that would obstruct a neighbor's view; 4) That the second-story of the house and the accessory structure/pool house have flat roofs and utilize only flat solar panels; and 5) That the accessory structure be moved to within two feet of the property line or relocated to the northeast corner.

Judy Brunetti, 4815 Greenmeadows Avenue, requested clarification of the approval process should the applicant propose a one-story home under 14 feet in height.

Ruth Vogel, 114 Via la Soledad, offered clarification of her comments at the May 19, 2010 Planning Commission meeting. She explained that she mentioned that the Council had denied a project in July 2008 to protect a neighbor's blue sky view, however, she did not state that the Council had set a precedent by doing so.

Mr. Bakhoun requested an opportunity to review the information submitted at this hearing.

The Council briefly recessed from 10:03 p.m. to 10:16 p.m.

Responding to audience members' comments, Mr. Bakhoun disputed the claim that there are only a few two-story homes within the notification area, reporting that 38% of the homes are two-story according to his research. Submitting photographs to illustrate, he stated that Mr. Kusion is well aware that a one-story addition would block his view as evidenced by the fact that he has requested that trees in that view corridor be trimmed to no taller than six feet. With regard to 513, 515 and 523 Camino de Encanto, he noted that it was staff's impartial judgment that the proposed project has been designed to minimize the impact on these properties. He submitted information regarding illegal tree trimming that took place on the subject property.

Betsy Delurgio, 209 Via El Toro, applicant, stated that she and her husband have done everything possible to communicate with neighbors; noted that this is the project's third revision and staff has objectively confirmed that this design would have the least impact on neighbors; and pointed out that the FAR (floor area ratio) is well below the maximum allowed. She contended that the project maintains all significant views and urged the Council to approve it, either as proposed or imposing reasonable conditions, so that the project can finally go forward.

Councilmember Numark noted that Torrance Municipal Code §91.41.10 requires that the applicant demonstrate that denial of the application would constitute an unreasonable hardship in order to exceed the height of the existing home.

Mr. Bakhoun stated that he believed it would be unfair not to allow the Delurgios to develop their property in a way that is consistent with other homes in this neighborhood, noting that the majority of homes have an FAR of around 0.35, which is slightly above the project's FAR of 0.34. Additionally, he noted that the Delurgios need more space to accommodate their growing family.

Mr. Delurgio noted that the detached accessory structure was a compromise in order to preserve view corridors for neighbors as he would have preferred to have this space as part of the house.

Councilmember Numark asked for staff's assessment of the project's impact on views to the south from residences on Camino de Encanto and Planning Manager Lodan reported that the blockage in this direction is primarily blue sky views.

In response to Councilmember Sutherland's inquiry, Mr. Delurgio confirmed that his real estate agent explained the Hillside Ordinance prior to purchase and he understood that there are difficulties associated with developing property in this area. He stated, however, that he also understood that his property rights would be upheld and the City would not execute a regulatory taking of his property.

Councilmember Sutherland related his understanding that the City may not restrict solar panels due to view impact, and Assistant City Attorney Sullivan confirmed that the Solar Rights Act protects solar panel installations and supersedes the Hillside Ordinance.

Mayor Scotto asked about the possibility of moving the accessory structure/pool house to the northeast corner of the property.

Mr. Bakhoun explained that moving the accessory structure to this area of the lot would drastically impact the adjacent property, which is approximately 4 feet lower than the subject property.

Mr. Delurgio reported that this property owner now supports the project, but would be opposed if the accessory structure is relocated because it would block sunlight from her property.

At Councilmember Numark's request, Mr. Lattey provided clarification regarding the conditions he earlier proposed. With regard to vegetation, he proposed limiting the height of vegetation within ten feet of property boundaries to the height of the adjacent wall, which is approximately 4 feet, and limiting vegetation adjacent to the house or in areas that do not obstruct views to no more than 10 feet.

In response to Councilmember Brewer's inquiry, Mr. Bakhoun provided clarification regarding sill heights. He reported that changing to a flat roof would result in an 18-24 inch height reduction, but he was not in favor of this for aesthetic reasons, and that modifying the roof pitch from 4-in-12 to 3-in-12 would result in a height reduction of approximately 10.75 inches. He expressed his clients' willingness to work with neighbors on vegetation issues.

MOTION: Councilmember Rhilinger moved to close the public hearing. The motion was seconded by Councilmember Sutherland and passed by unanimous vote.

Councilmember Sutherland indicated that he was generally opposed to allowing second stories in the Hillside Overlay area and didn't see how the Council could approve this project after denying a two-story project next door, however, he feared that a one-story addition would have a greater impact on views and neighbors could come to regret their opposition to this project. He expressed the hope that real estate agents would do a better job of emphasizing the near impossibility of obtaining approval for a second story in the Hillside Overlay area.

Councilmember Brewer expressed concerns that severely limiting property owners' ability to improve their homes could ultimately impact property values throughout the Hillside area.

Councilmember Barnett noted that if the Council denies this project, it would be tantamount to saying that the applicant may only build a one-story addition and he was concerned that a one-story addition might also be denied and the applicant would be left with no project.

Assistant City Attorney Sullivan conceded that there could be property rights issues if both a two-story project and a one-story project were denied. He clarified that whereas the Hillside Ordinance §91.41.6(a) states that a proposed development shall not have an adverse impact on the view, light, air and privacy of other properties in the vicinity, "adverse impact" has been consistently interpreted by this Council, previous Councils and the Court to mean "substantial adverse impact."

Councilmember Barnett stated that while neighbors have clearly indicated they do not want a two-story project, he was concerned that the "cure was worse than the disease," since they might find a one-story project even more objectionable.

Assistant City Attorney Sullivan noted that §91.41.6 (b) states that a proposed development must be located, planned and designed so as to cause the least intrusion on views, and this is something Councilmembers should also consider because they may find based on the testimony and evidence presented along with their own observations that the proposed two-story design would cause the least intrusion.

Councilmember Rhilinger stated that she also generally does not favor allowing second stories in the Hillside Overlay, but it was evident from Mr. Bakhoun's presentation that this lot is unusual due to the various view corridors through the property and that is why Hillside cases are considered on an individual basis. She related her belief that a one-story project would be more intrusive and that the proposed two-story design does the best job of preserving the views of all the neighbors involved, including those not present at this hearing. She expressed support for moving the accessory structure closer to the property line since both sides agree this would be an improvement and changing the roof pitch to 3-in-12, but indicated that she did not favor changing to a flat roof because it would detract from the home's appearance.

Councilmember Furey commended Mr. Bakhoun for his presentation showing the various view corridors, noting that it was very helpful and demonstrated that an effort was made to preserve neighbors' views. He commented on the acrimony the proposed project has created in the neighborhood and stated that he would have preferred that the applicants had removed the trees that obscured the silhouette, some of which appeared

to have been deliberately planted for this purpose. He echoed Councilmember Rhilinger's comments about moving the accessory structure and changing the roof pitch.

Councilmember Brewer stated that by denying this project, the Council would essentially be saying that it must be redesigned as a one-story home and according to the diagram of sight lines submitted by Mr. Bakhoun, this would drastically impact the view at 515 Camino de Encanto and could also block views of neighbors who are currently not affected by the project. He related his belief that the proposed two-story project has been designed to minimize view impact and indicated that he was inclined to support it with the additional conditions proposed by Councilmember Rhilinger.

Councilmember Numark noted that there is no inherent right to build in the Hillside Overlay area as all construction must comply with the Code. With respect to this case, he explained that it was a difficult decision because there is some impact, however, he has concluded that the project complies with the Hillside Ordinance because he believes it would not have a substantial impact on views, light, air or privacy; it was located, planned and designed to cause the least intrusion on other properties in the vicinity; it was not feasible to increase the size of or rearrange the space within the existing building or structure except by increasing the height; and denial of the project would be an unreasonable hardship because the applicants would be denied the opportunity to develop their property in compliance with the Code. He indicated that he favored including the additional conditions discussed to ensure that the project would have the least possible impact.

Mayor Scotto commented that he enjoys a view from his home and is very conscious of the need to protect them. He stated that he saw no way to build a one-story addition on this property without affecting several neighbors' views, with the home at 523 Camino de Encanto being the most affected, and he believes the proposed two-story project is the best solution. He proposed a condition limiting vegetation to the height of existing property line walls to ensure that views are protected in the future and indicated that he also favored changing the roof pitch and moving the accessory structure closer to the property line.

Councilmember Rhilinger expressed concerns about imposing a condition restricting vegetation that applies to this applicant only and the possibility that it could bind the Council in future decisions. She related her preference that any restrictions on vegetation be a private agreement between the parties involved.

Mayor Scotto asked about the Council's ability to specify that the condition concerning vegetation applies to this project and this project only.

Assistant City Attorney Sullivan advised that while the Council can specify that the condition applies to this project only, the public tends to view such action as precedent setting. He noted that even though the protection of blue-sky views was mentioned at only one City Council hearing a few years ago, this issue is now brought up on a regular basis at Planning Commission hearings. He reiterated staff's position that imposing this type of condition would be setting a dangerous precedent. He noted that the City does not have a tree ordinance and the Hillside Ordinance does not address vegetation.

Voicing support for imposing a condition restricting vegetation, Councilmember Numark noted that the Council has the authority to impose conditions as part of the Precise Plan approval process and related his belief that tree and shrubbery issues were an integral part of this case. He recognized that people may bring this up in the future, however each Hillside case is fact specific.

Councilmember Brewer expressed concerns about creating a de facto tree ordinance that applies to this property only, noting that there would be nothing to prevent downhill neighbors from planting "spite trees" to block the Delurgios' view. He voiced his opinion that it would be better for the parties involved to reach a private agreement as a step toward healing the rift in this neighborhood.

Mayor Scotto pointed out that should the Delurgios sell the property, any private agreement would go away, therefore, he favored imposing a condition that runs with the land thereby protecting views no matter who owns the property.

Councilmember Rhilinger acknowledged that it would be very helpful to the neighbors to permanently restrict vegetation on this property, but saw no reason why it should be done in this case when it has never been done in the past. She expressed concerns that such a condition could lead to a tree ordinance, which is something that she does not support.

Councilmember Furey stated that he would not support the project without some restriction on vegetation to protect neighbors' views.

Councilmember Brewer reiterated his opposition to creating a de facto tree ordinance that applies to this property only and related his belief that it would only lead to more animosity in this neighborhood and encourage others to seek the same protection.

MOTION: Councilmember Rhilinger moved to uphold the appeal and approve PRE09-00007, adding the following conditions:

- 1) That the accessory structure/pool house shall be moved as close to the southeast property line as possible.
- 2) That east and south-facing windows shall have a minimum sill height of 5'6" or be constructed of obscured glass.
- 3) That the second-story roof pitch shall be changed to 3-in-12.

The motion was seconded by Councilmember Brewer and Councilmember Numark offered a substitute motion.

MOTION: Councilmember Numark moved to uphold the appeal and approve PRE09-00007, adding the following conditions:

- 1) That the accessory structure/pool house shall be moved as close to the southeast property line as possible.
- 2) That east and south-facing windows shall have a minimum sill height of 5'6" or be constructed of obscured glass.
- 3) That the second-story roof pitch shall be changed to 3-in-12.

- 4) That no additional permanent structures over six feet high shall be added to the property.
- 5) That no vegetation on the south, east or north sides of the property shall exceed the height of the existing walls.

The motion was seconded by Councilmember Furey, and discussion continued.

Councilmember Brewer noted that there is currently play equipment in the backyard and questioned whether that would be deemed a permanent structure and therefore have to be removed.

Community Development Director Gibson advised that staff does not view play equipment as a permanent structure and would interpret "permanent structure" to mean something that requires a building permit. He noted that conditions of this nature tend to be contentious because people can disagree as to exactly what they mean.

Councilmember Numark commented that this process has been contentious for everyone involved and he believed the proposed restrictions were reasonable.

In response to Assistant City Attorney Sullivan's inquiry, Councilmember Numark clarified that it was not his intention to require that play equipment be removed.

Mayor Scotto called for a vote on the substitute motion.

MOTION: Councilmember Numark moved to uphold the appeal and approve PRE09-00007, adding the following conditions:

- 1) That the accessory structure/pool house shall be moved as close to the southeast property line as possible.
- 2) That east and south-facing windows shall have a minimum sill height of 5'6" or be constructed of obscured glass.
- 3) That the second-story roof pitch shall be changed to 3-in-12.
- 4) That no additional permanent structures over six feet high shall be added to the property.
- 5) That no vegetation on the south, east or north sides of the property shall exceed the height of the existing walls.

The motion was seconded by Councilmember Furey and passed by as reflected in the following vote:

AYES: Councilmembers Barnett, Furey, Numark and Mayor Scotto

NOES: Councilmembers Brewer, Rhilinger and Sutherland

Community Development Director Gibson noted that Resolutions reflecting the Council's decision would be brought back for approval at later date.

14. APPEALS

14A. APPEAL OF REVOCATION OF KING'S HEALTH CENTER'S BUSINESS LICENSE

Recommendation

Recommendation of the Finance Director that City Council concur with the decision of the License Review Board to revoke the business license issued to King's Health Center (located at 2390 Crenshaw Boulevard, Unit A) for numerous violations of the City of Torrance Municipal Code.

Assistant City Attorney Sullivan reported that City Attorney's office received a letter earlier in the day from attorneys representing King's Health Center withdrawing the appeal, therefore the revocation of the Business License would stand.

*

The City Council met as the Redevelopment Agency from 11:33 p.m. to 11:36 p.m.

17. ORAL COMMUNICATIONS #2

17A. Councilmember Barnett announced that the Torrance Rose Float Association will be holding a fundraiser on Wednesday, July 21, from noon – 9:30 p.m. at El Paso Cantina, located at 2404 W. Sepulveda Boulevard, with 25% of the proceeds to be donated to TRFA.

18. EXECUTIVE SESSION

Executive Session was deferred to July 27, 2010.

19. ADJOURNMENT

At 11:38 p.m., the meeting was adjourned to Tuesday, July 27, 2010 at 5:30 p.m. for an executive session, with regular business commencing at 7:00 p.m. in the Council Chambers.

Attest:

/s/ Frank Scotto

Mayor of the City of Torrance

/s/ Sue Herbers

Sue Herbers
City Clerk of the City of Torrance

Approved on August 24, 2010